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9 UNITED STATES MAGISTRATE COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,) No. 3 06 70060 MEJ
13 Plaintiff,) [PROPOSED] ORDER AND
14 v.) STIPULATION FOR CONTINUANCE
15 MICHAEL ANTHONY KENNELLY,) FROM APRIL 19, 2006 TO MAY 3, 2006
16 Defendant.) AND EXCLUDING TIME FROM THE
SPEEDY TRIAL ACT CALCULATION
17 (18 U.S.C. § 3161(h)(8)(A)) AND
WAIVING TIME LIMITS UNDER RULE
5.1

18 With the agreement of the parties, and with the consent of the defendant, the Court enters
19 this order scheduling an arraignment or preliminary hearing date of May 3, 2006 at 9:30A.M.
20 before the duty magistrate judge, and documenting the defendant's waiver of the preliminary
21 hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time under the
22 Speedy Trial Act, 18 U.S.C. § 3161(b), from April 19, 2006 to May 3, 2006. The parties agree,
23 and the Court finds and holds, as follows:

- 24 1. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C. §
25 3161(h)(8)(B)(iv) to provide continuity of counsel and reasonable time necessary for effective
26 preparation, taking into account the exercise of due diligence.
- 27 2. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for
28 preliminary hearing.

1 3. Counsel for the defense believes that postponing the preliminary hearing is in his
2 client's best interest, and that it is not in his client's interest for the United States to indict the
3 case during the normal 10-day timeline established in Rule 5.1.

4 5. The Court finds that, taking into the account the public interest in the prompt
5 disposition of criminal cases, these grounds are good cause for extending the time limits for a
6 preliminary hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances,
7 the Court finds that the ends of justice served by excluding the period from April 19, 2006 to
8 May 3, 2006 outweigh the best interest of the public and the defendant in a speedy trial. §
9 3161(h)(8)(A).

10 6. Accordingly, and with the consent of the defendant, the Court (1) sets a preliminary
11 hearing date before the duty magistrate judge on May 3, 2006 at 9:30A.M., and (2) orders that
12 the period from April 19, 2006 to May 3, 2006 be excluded from the time period for preliminary
13 hearings under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial Act calculations
14 under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

15
16 IT IS SO STIPULATED:

17
18 DATED: April 13, 2006

/S/

RON TYLER
Attorney for Defendant

20
21 DATED: April 13, 2006

/S/

BLAKE D. STAMM
Assistant United States Attorney

23 IT IS SO ORDERED.

24
25 DATED: 4/17/06

